



Virginia
Regulatory
Town Hall

Periodic Review and
Exempt Action or Exempt Agency Final Regulation
Agency Background Document

Agency Name:	Department of Labor and Industry
VAC Chapter Number:	16 VAC 15-40-10 et seq.
Regulation Title:	Virginia Hours of Work for Minors
Action Title:	Amendment of regulation to incorporate federal standards and an exception found in the Code of Virginia
Date:	April 21, 2000

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to amend or repeal an existing regulation which is exempt from the Administrative Process Act pursuant to § 9-6.14:4.1.

Note that agency actions exempt pursuant to § 9-6.14:4.1 do not require filing with the Registrar a Notice of Intended Regulatory Action or at the proposed stage. The agency must still, however, comply with the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the *Code of Virginia*) and file with the Registrar and publish their final regulation in a style and format conforming with the *Virginia Register Form, Style and Procedure Manual*. The agency must also comply with Executive Order Fifty-Eight (99) which requires an assessment of the regulation's impact on the institution of the family and family stability.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

The regulation sets forth the number of hours per week, the maximum hours per day, and the hours during the day that minors under the age of 16 may work in connection with any gainful employment.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

Section 40.1-80.1 of the Code of Virginia requires the Commissioner of Labor and Industry to promulgate by regulation the hours of work for minors under 16 years of age. This section also specifies a lunch period for a child employed or permitted to work. This section further requires that such regulations "incorporate the standards contained in regulations promulgated by the United States Secretary of Labor pursuant to the Fair Labor Standards Act (29 U.S.C. Section 201 et seq.)" concerning the hours of work for minors under 16 years of age.

Because the hours of work for minors under 16 years of age is required by the Code of Virginia to be identical to federal regulations, the Commissioner has no discretion in the promulgation of this regulation.

This regulation does not exceed the minimum requirements of the Code of Virginia mandate.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was or will be formed for purposes of assisting in the periodic review or development of a proposal.

No public comment was received on this regulation during the public comment period. The agency did not establish an informal advisory group for the purpose of assisting in the periodic review.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected. Please state the reasons the agency determined the regulation be amended or terminated.

The regulation has two goals:

1. Protect the health, welfare and safety of the minors of the Commonwealth by establishing maximum limits on the hours which minors under the age of 16 are allowed to work.

2. Protect the public's health, safety and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.

This regulation protects the health, welfare and safety of minors by prohibiting inappropriate child labor conditions. It also assures that the minor's work does not interfere with school and other activities. The proposed exemption amendments will not be inconsistent with the goal of prohibiting oppressive child labor, provided the minors work outside of school hours and they perform work that is limited to the traditional duties of typical sports attendants, i.e., specifically sports-connected duties. A study conducted by Congress in 1987 concluded that changes in the permissible hours and time standards for the employment of sports attendants would not interfere with their schooling and their health and well-being. When the Secretary of Labor approved this exemption, the Secretary found that this exemption provides positive, formative experiences to young people without interfering with their schooling or their health and well-being. The exemption allows young people to participate in a memorable and unique work experience that allows them to associate with individuals possessing attributes of success and achievement, i.e. mentors or role models.

The regulation and the proposed exemptions protect minors' health, safety and welfare by providing positive, formative experiences to young people. Neither is costly or intrusive to the citizens and businesses of the Commonwealth.

The regulation is clearly written and easily understandable by the individuals and entities affected.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

Since the regulation is mandated by the Code of Virginia (Section 40.1-80.1), there are no alternatives to achieve the purpose of this regulation.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency .including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On April 21, 2000, the Commissioner of Labor and Industry approved the amendment of 16 VAC 15-40-10 and 16 VAC 15-40-50 of the Virginia Hours of Work for Minors regulation to include exceptions found in federal child labor regulations and the Code of Virginia.

Additional Information

Please indicate that the text of the proposed regulation, the reporting forms the agency intends to incorporate or use in administering the proposed regulation, a copy of any documents to be incorporated by reference are attached.

Please state that the Office of the Attorney General (OAG) has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law. Note that the OAG's certification is not required for Marine Resources Commission regulations.

If the exemption claimed falls under § 9-6.14:4.1(C) (4)(c) of the APA please include the federal law or regulations being relied upon for the final agency action.

The text of the amendments to sections 16 VAC 15-40-10 and 16 VAC 15-40-50 is attached. There are no reporting forms or documents to be incorporated by reference associated with this regulation.

The Office of the Attorney General has certified that the agency has the statutory authority to amend this regulation as an exempt action under sections 9-6.14:4.1 C 4 a and 9-6.14:4.1 C 4 c of the APA of the Code of Virginia. The federal regulation relied upon for this action is 29 CFR 570.35, Employment of Minors Between 14 and 16 Years of Age, Periods and conditions of employment.

Family Impact Statement

Please provide a preliminary analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

- 1) The proposed exemptions will not affect the authority of parents in the supervision of their children. The proposed changes in no way restrict the parents' authority to refuse to give their children permission to work.
- 2) The proposed exemptions will encourage minors' economic self-sufficiency and responsibility by allowing them to have a unique, rewarding work experience.
- 3) The proposed exemptions will have no effect on the marital commitment.
- 4) The proposed exemptions will increase the disposable family income by increasing employment opportunities for minors.